IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

Crl.MC.No. 2391 of 2007()

CC.1176/2002 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOLLAM

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PETITIONER: ACCUSED

JAYASEELAN, S/O.APPU ACHARI,
RATNA BHAVAN, KAVALAYOOR, MOONGODE P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.THIRUMALA P.K.MANI

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 25/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2391 of 2007

Dated this the 25th day of July, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. Cognizance was taken. The petitioner has not appeared before the learned Magistrate at all. Consequently reckoning him as an absconding accused, coercive processes have been issued by the learned Magistrate to procure his presence. The petitioner finds such processes chasing him now.

2. According to the petitioner, he is absolutely innocent. His failure/omission to appear was not wilful, but was due to reasons beyond his control. He is willing to surrender before the learned Magistrate and co-operate with the court for the expeditious disposal of the case. But he apprehends that his application for bail may not be considered by the learned Magistrate in accordance with law, on merits and expeditiously.

3. I find no merit in the prayer to invoke the powers under Section 482 Cr.P.C. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in

accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-